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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/789,365	02/27/2004	Patrik Denoth	34097/US	5140
74307 7590 04/16/2008 Dorsey & Whitney LLP IP Department, ATTN: Disetronic Licensing AG 50 South Sixth Street, Suite 1500 Minneapolis, MN 55402-1498				
EXAMINER VU, QUYNH-NHIU HOANG				
ART UNIT 3763		PAPER NUMBER		
MAIL DATE 04/16/2008		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/789,365

Applicant(s)

DENOTH ET AL.

Examiner

QUYNH-NHU H. VU

Art Unit

3763

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 February 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SE/US)
- Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

Amendment filed on 2/19/08 has been entered.

Claims 1-34 are present for examination.

Applicant's arguments filed on (date) have been fully considered but are not persuasive.

Therefore, claims 1-34 are rejected in the new ground rejections.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the **"a connecting device comprising a thread surface configured to engage with the port casing threaded surface"** of claim 28 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. **It is noted that Figs. 1-7 show only the port casing 2 having a thread surface.**

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

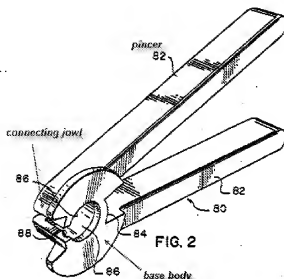
A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 19-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Lee et al. (US 4,645,494).

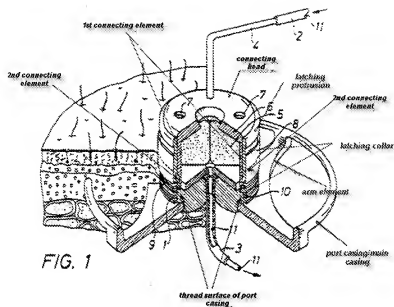
Regarding claims 1-18, Lee et al. disclose a port system comprising: a replaceable implantable first fluid guiding system 30 (col. 4, lines 37-43; an external second fluid guiding system 66, a connecting device 100 and 92 which comprises a second connecting elements 102 or 92; wherein the connecting head is fastened to the port casing 12.

Regarding claims 19-27, Lee et al. discloses a connecting device comprises a pair of pincers 82 carried on a connecting head 92 (where the stabilizing tool 80 is locked or attached to device 10) of fluid guiding system and further comprises a base body, and a connecting cannula 42 and at least one connecting jawl which can be splayed from said base body against a restoring elasticity force (see Fig. 2 below for more details).



Claims 28-31 are rejected under 35 U.S.C. 102(b) as being anticipated by Svensson et al. (US 5,098,397).

Svensson discloses, (in Figs. 1-2, also see Fig. below for more details), a port system comprising: an implantable first fluid guiding system 3 or 11; an external second fluid guiding system 2 or 4 with a connecting head 6, 8 at one end; a percutaneously implantable port for establishing a fluid connection between said fluid guiding systems, said port comprising a port casing 10 having a threaded surface (engaged at location 1); and a connecting device (include 5, 6 and 8) comprising a thread surface (6 or 8, col. 2, lines 1-20) which engage with the port casing thread surface; a plurality of comprises a second connecting element 8; and wherein said connecting head is fastened to said port casing 10 by a releasable fastening engagement (at zone 9) of said connecting element.



Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Svensson et al. (US 5,098,397) in view of Klein et al. (US 4,488,877)

Svensson discloses a port system comprising: an implantable first fluid guiding system 3 or 11; an external second fluid guiding system 2 or 4 with a connecting head 6, 8 at one end; a percutaneously implantable port for establishing a fluid connection between said fluid guiding systems, said port comprising a port casing 10 which forms a first connecting element; and a connecting device (include 5, 6 and 8) which comprises a second connecting element; wherein said connecting head 8 is fastened to said port casing 10 by a releasable fastening engagement (at zone 9) of said connecting element.

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Svensson does not disclose that the fluid guiding is replaceable (see abstract or col. 4, lines 43-65).

Klein teaches that the fluid guiding is able to removed and replaced.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the device of Svensson with a replacement of fluid guiding system, as taught by Klien, in order to prevent the bacteria invasion through the catheter and the catheter not embedded in any body tissue.

Regarding claims 2-4, the connecting elements are elastically pressed onto each other in said fastening engagement with a pressing force; the connecting elements are molded such that they press against each other in the fastening engagement, with a first force component parallel to said pressing force and a second force component transverse to the pressing force; the connecting elements latch together in the fastening engagement in a positive lock and frictional lock.

Regarding claims 5-6, one of the connecting elements forms a latching protrusion (at zone 9) comprising the latching collar.

Regarding claim 7, the connecting head comprises a connecting cannula which in the fastening engagement of the connecting elements protrudes into the port casing and is freed from or at least relieved of external force by the fastening engagement.

Regarding claims 8-9, (see Fig. 1 below) the connecting head comprises a base body 6 (a disc-shaped part) and a connecting jowl (the leg part vertically and directly contact with outer cylinder 8) forms the second connecting element.

Regarding claims 10-11, the port casing comprises a main casing (a wheel-shaped at bottom) and a membrane casing 10; wherein the first connecting element is formed by the membrane casing.

Regarding claims 12-14, (see Fig. 1 below for more details), latching protrusion and latching collar encircle said longitudinal axis of the port casing in curved arc segments; a plurality of arm elements.

Regarding claims 15-18, the connecting head comprises a connecting cannula; a port casing forms a curved guide, the port casing forms an opening funnel.

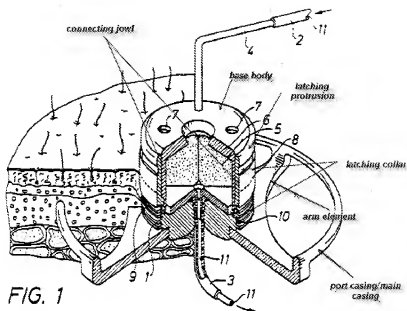


FIG. 1

Claims 32-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Svensson et al. in view of Lee et al.

Svensson discloses the invention substantially as claimed. Svensson does not disclose the connecting head further comprising a pair of gripping element as described in claims 32-34.

Lee discloses a pair of gripping elements 82 (see Fig. above of Lee).

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the device of Svensson with a gripping element, as taught by B, in order to secure about a projecting flange on the external portion of the implant device so as to provide a load distributing base during the connection and disconnection of the access set.

Response to Arguments

Applicant's arguments with respect to claims 1-34 have been considered but are moot in view of the new ground(s) of rejection.

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Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to QUYNH-NHU H. VU whose telephone number is (571)272-3228. The examiner can normally be reached on 6:00 am to 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nicholas Lucchesi can be reached on 571-272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Nicholas D Lucchesi/
Supervisory Patent Examiner, Art Unit 3763

Quynh-Nhu H. Vu
Examiner
Art Unit 3763